

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

O2 MICRO INTERNATIONAL LIMITED,

No. C 07-02073 CRB

Plaintiff,

ORDER GRANTING MOTION TO
TRANSFER

v.

MICROSEMI CORPORATION,

Defendant.

Now pending before the Court is the motion of defendant Microsemi Corporation (“Microsemi”) to dismiss, transfer or stay this patent declaratory judgment action filed by plaintiff O2 Micro International Limited (“O2 Micro”). After carefully considering the briefs and evidence filed by the parties, the Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and TRANSFERS this action to the Eastern District of Texas pursuant to 28 U.S.C. section 1404(a).

The action filed by O2 Micro in the Eastern District of Texas addresses the same technology as this action. This lawsuit and the Texas lawsuit involve inverter controllers for LCD displays commonly found in laptop computers and flat screen televisions. The actions also involve the same products. In the Texas action O2 Micro accuses Microsemi’s OZ960 series of infringing O2 Micro’s patents, including the ‘722. Finally, these lawsuits involve overlapping patents. The ‘722 identifies as prior art Microsemi’s ‘121. This declaratory

1 judgment action addresses the '121 and Microsemi's infringement claims (currently filed in
2 the Eastern District) also assert the '121.

3 It is in the interests of justice and judicial economy for all of the parties' litigation to
4 be heard by the same court. As the technology will be the same for all patents, having all the
5 patents before a single judge will obviate the need for duplicative time-consuming tutorials.
6 Moreover, a single judge can more effectively coordinate the scheduling of discovery,
7 motions, and hearings, as well as determine the proper grouping of patents for trial. The
8 construction of the claims of the '121 will be a central issue in both lawsuits and, again, it
9 makes sense for one judge to construe the same patent at issue between the same parties.
10 Finally, having all of the parties' dispute before a single court will facilitate settlement.

11 That O2 Micro chose to bring suit in Texas against Microsemi's customers rather than
12 against Microsemi itself is of no moment. Those customers have now brought Microsemi
13 into the Texas lawsuit as O2 Micro must have expected would happen when it filed the
14 lawsuit and accused Microsemi's products of infringing O2 Micro's patents. The Court is
15 also not persuaded that the declaratory judgment action should remain in this District because
16 it was filed one day before Microsemi's related infringement claims were filed in the Texas
17 action. O2 Micro filed the action here only after Microsemi notified O2 Micro that it would
18 be imminently filing the infringement claims in the Texas action. It was thus unnecessary for
19 O2 Micro to file this action in order to "clear the air of the uncertainty engendered by
20 Microsemi's ongoing assertion of its patents." O2 Micro's Opp. at 3. The Court also gives
21 little deference to Microsemi's choice of this forum in light of its proclivity for filing patent
22 lawsuits in the Eastern District of Texas and the lack of any significant connection to this
23 District.
24

25 Finally, the Court notes that to countenance Microsemi's argument would discourage
26 counsel from candidly and openly negotiating scheduling matters and attempting to resolve
27 issues without the intervention of a court. Such discouragement does not facilitate the just
28 and orderly administration of the courts.

1 Accordingly, Microsemi's motion to transfer to the Eastern District of Texas is
2 GRANTED.

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5 **IT IS SO ORDERED.**

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7 Dated: June 4, 2007



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE